WOMEN'S BUREAU
U.S. DEPARTMENT OF LABOR

ISSUE BRIEF

MARCH 2024

HISTORY OF PAID LEAVE IN THE UNITED STATES

Sophia M. Mitchell | U.S. Department of Labor

Paid family and medical leave refers to policies that enable workers to receive wage replacement when they take extended time off from work for qualifying reasons, such as bonding with a new child, recovering from their own serious health condition or caring for a loved one with a serious health condition. While many workers are entitled to take unpaid leave under the Family and Medical Leave Act (FMLA),[1] there is currently no federal law providing or guaranteeing access to paid family and medical leave for workers in the private sector.[2] However, some states have their own paid leave programs and requirements.

Nothing in this document constitutes legal advice. The materials provided by the Women's Bureau are for informational purposes only and are not intended as a substitute for seeking legal advice.[3]

State-Administered Temporary Disability Insurance (TDI) Programs

In the 1940s, as the United States recovered from the Great Depression which emphasized the need for economic security, states established the first iterations of paid leave programs. Rhode Island, California, New Jersey, and New York established state-administered temporary disability insurance programs to provide workers with paid medical leave to care for themselves when experiencing a serious illness or injury. Experts on the history of paid leave have shared the anecdote of a woman in Rhode Island who filed for unemployment compensation and was severely injured mere moments later during her commute home, making her ineligible for unemployment (as to qualify for unemployment compensation, you must be able and available for work).[i] Thus, in 1942, Rhode Island created a temporary disability insurance program to provide partial wage replacement to individuals who are injured and unable to work. This form of "unemployment due to sickness" was created using the state unemployment insurance's legal and administrative framework.[ii] Advocates were able to have two-thirds of the employee contribution to unemployment insurance reallocated to the temporary disability insurance fund and, with these resources, created an exclusive state fund to provide Rhode Island workers with paid medical leave.

In 1946 and 1948, California and New Jersey created temporary disability insurance programs, following Rhode Island's lead in using their state unemployment insurance program as the program framework.[iii] Both states also reallocated the employee contribution for unemployment insurance to the temporary disability insurance program to

---

1. The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. For more information, see the U.S. Department of Labor's Wage and Hour Division website: https://www.dol.gov/agencies/whd/fmla.

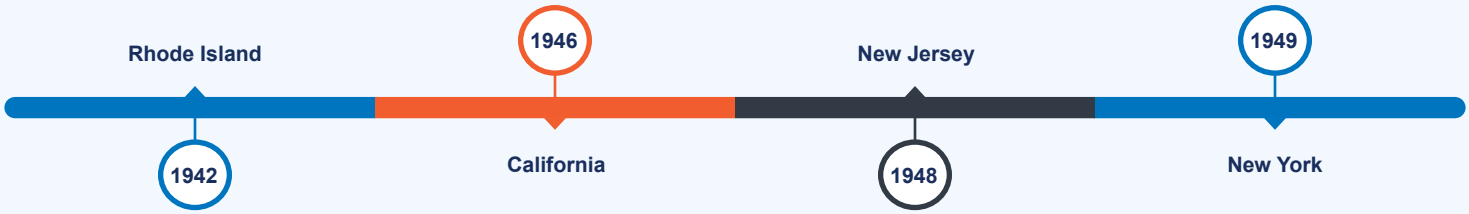
2. Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, requires parties that enter into covered contracts with the federal government to provide covered employees with up to seven days of paid sick leave annually, including paid leave allowing for family care. For more information, see the U.S. Department of Labor's Wage and Hour Division website: https://www.dol.gov/agencies/whd/government-contracts/sick-leave.

3. Any links to non-federal websites on this page provide additional information that is consistent with the intended purpose of this federal site, but linking to such sites does not constitute an endorsement by the U.S. Department of Labor of the information or organization providing such information. For more information, please visit https://www.dol.gov/general/disclaim

help fund the program. California and New Jersey allowed employers to provide an alternative option for coverage for their employees (provided that they received consent from the majority of their employees), either through short-term disability through a private insurer or by self-insuring. While California "allow[ed] employers to opt out of the state plan as long as their coverage meets the minimum requirements set by the state program and offer[ed] at least one benefit that is more generous, with equal or lesser costs for employees," New Jersey "permit[ed] companies to opt out if they provid[ed] coverage through an approved private plan with equal or greater benefits, and equal or lesser costs, for employees."[iv]

In 1949, New York created its own temporary disability program. However, as New York did not have an unemployment insurance employee tax that could be reallocated to fund the temporary disability insurance program, New York built its program on the legal and administrative foundation of its workers' compensation program.[v] New York's workers' compensation program uses a competitive state fund. For New York's temporary disability insurance program, employers can either provide employee coverage through a private insurer, self-insure, or from the state fund, all of which are heavily regulated by the state through an enforcement agency and formal appeals process. Unlike California and New Jersey, New York does not require consent from the majority of employees to adopt a private plan.[vi] Though there were amendments to the state-administered temporary disability insurance programs (e.g., the Pregnancy Discrimination Act provided pregnant workers with the option to use medical leave for prenatal and postnatal leave[vii]), the next iteration of paid leave programs would not occur until over half a century later.[4]

Figure 1. Timeline of state-administered temporary disability insurance programs in the United States



State Paid Family and Medical Leave Programs

Between 2002 and 2016, California,[viii] New Jersey,[ix] Rhode Island,[x] and New York[xi] established paid family leave programs, providing workers with access to leave to care for a loved one with a serious health condition or a new child. These programs, in addition to the existing temporary disability insurance programs, served as the framework for state paid family and medical leave, which provide workers with paid leave from work to attend to a serious health condition involving themselves or a loved one, or to welcome a new child into their home. The number of states with paid family and medical leave programs continue to grow with 13 states and the District of Columbia currently having enacted programs: California (2002), New Jersey (2008), Rhode Island (2013), New York (2016), District of Columbia (2017),[xii] Washington (2017),[xiii] Massachusetts (2018),[xiv] Connecticut (2019),[xv] Oregon (2019),[xvi] Colorado (2020),[xvii] Maryland (2022),[xviii] Delaware (2022),[xix] Minnesota (2023),[xx] and Maine (2023).[xxi] Although programs have been established in these, the following states' programs will begin providing benefits in 2026: Maryland, Delaware, Minnesota, and Maine.

This brief examines the following features of state paid family and medical leave laws (though non-exhaustive): program design, funding method, reasons for leave, family member definition, length of leave, wage replacement rate, and job protection.

4. In 1969, Hawaii established a temporary disability insurance program from scratch that is funded through either state-approved private coverage or a self-insured employer. Since this program is not a state-administered program, it was not included in this summary of state-administered paid leave programs.

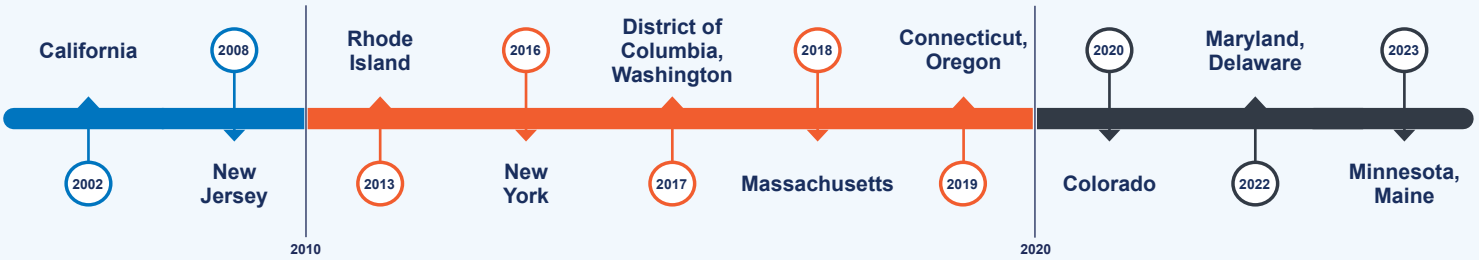
Table 1. Features of paid leave programs by state

		CA	NJ	RI	NY	DC	WA	MA	CT	OR	CO	MD	DE	MN	ME
Design	Social insurance with limited options for private coverage	✓	✓				✓	✓	✓	✓	✓	✓	✓	✓	✓
	Social insurance with state fund			✓		✓									
	State fund with highly regulated private option				✓										
Funding	Workers/employers share						✓	✓		✓	✓	✓	✓	✓	✓
	Workers only	✓		✓					✓						
	Workers/employers share medical leave; employees only family leave		✓		✓										
	Employers only					✓									
Reasons	Care for self, family member, new child	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Military family needs	✓			✓		✓	✓	✓		✓	✓	✓	✓	✓
	Safe leave[5]		✓					✓	✓	✓	✓			✓	✓
	Pregnancy-related medical care[6]					✓	✓		✓	✓	✓				
Definition of family member	Child, parent, spouse	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Parent-in-law	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
	Grandparent	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
	Sibling	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
	Domestic partner	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓
	Grandchild	✓	✓		✓		✓	✓	✓	✓	✓	✓		✓	✓
	Chosen family		✓				✓		✓	✓	✓			✓	✓
Wage replacement rate	Progressive wage	✓				✓	✓	✓	✓	✓	✓	✓		✓	✓
	Fixed wage		✓	✓	✓								✓		
Job protection	Family leave			✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
	Medical leave						✓	✓	✓	✓	✓	✓	✓	✓	✓

[5] Safe leave is leave from work for survivors of violence, or their family members, to seek help, support, and services related to the violence experienced.

[6] Pregnancy-related medical care refers to leave for medical care to attend to prenatal or postnatal needs.

Figure 2. Timeline of state paid family and medical leave programs (enactment date)



Program Design

State paid family and medical leave programs' program designs have followed the structures created by the original state-administered temporary disability insurance programs and include:

- Social insurance with limited options for private coverage
  - California, New Jersey, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Delaware, Minnesota, Maine,
- Social insurance with a state fund
  - Rhode Island, District of Columbia,
- State fund with highly regulated private option
  - New York

Funding Method

State paid family and medical leave programs are funded through payroll contributions from workers and employers, workers, or employers. Payroll contribution rates vary among the state paid leave programs and vary from year to year. Several states decrease or eliminate the employer's contribution for smaller employers (Washington, Massachusetts, Oregon, Colorado, Minnesota, Maine). A notable change occurred in 2023, when New Jersey eliminated workers' medical leave contribution entirely.[xxii]

Most of the state paid leave programs have launched in a staggered approach, with the collection of payroll deductions beginning a year or more ahead of when the program begins paying benefits to workers. However, Minnesota plans to collect contributions and provide benefits to workers simultaneously as general revenues will be available at the launch of the program to cover initial costs. Each program uses the following funding methods:

- Workers and employers sharing the cost of paid family and medical leave
  - Washington[7], Massachusetts[8], Oregon, Colorado, Maryland, Delaware, Minnesota, Maine,
- Workers covering the full cost of paid family and medical leave
  - California, Rhode Island, Connecticut,

[7] In Washington, an employer may deduct up to 100% of the premium required for family leave from the employee. Wash. Rev. Code 50.A.10.030(3)(a).
[8] In Massachusetts, an employer may deduct up to 100% of the premium required for family leave from the employee. Mass. Gen. Laws Ch. 175M Section 6(c)(2).

- Workers and employers sharing the cost of medical leave, with employees covering the full cost of family leave
  - New Jersey, New York,
- Employers covering the full cost of paid family and medical leave
  - District of Columbia

Reasons for Leave

State paid family and medical leave programs allow an employee to take leave to care for themselves, a family member, or a new child. Some state programs have expanded the definition of medical leave to include miscarriage and stillbirth, with District of Columbia amending its definition to include these types of pregnancy loss in 2022,[xxiii] and Minnesota including it the original law which was enacted in 2023.[xxiv,9] As programs have continued to expand, states have added additional reasons for leave, with expansions occurring in New Jersey in 2019 (domestic and sexual violence),[xxv] California in 2021 (military family needs),[xxvi] Oregon in 2022 (childcare due to school or childcare provider closure due to public health emergency),[xxvii] and Washington in 2022 (bereavement leave following the death of a new child).[xxviii] States also allow employees to use paid family and medical leave to:

- Attend to military family needs
  - California, New York, Washington, Massachusetts, Connecticut, Colorado, Maryland, Delaware, Minnesota, Maine,
- Take safe leave after an incident of domestic or sexual violence
  - New Jersey, Connecticut, Oregon, Colorado, Minnesota, Maine,
- Seek pregnancy-related medical care[10]
  - District of Columbia, Washington, Connecticut, Oregon, Colorado

Family Member Definition

State paid family and medical leave programs define family member as, at minimum: parent, spouse, and child, with the majority of states including adult children in the definition of child.[11] The definition of family member has continued to expand, with California in 2013 (grandparent, grandchild, sibling),[xxix] New Jersey in 2019 (grandparent, grandchild, sibling, domestic partner, parent-in-law, chosen family),[xxx] Washington in 2021 (chosen family),[xxxi] and New York in 2023 (sibling).[xxxii] States also include the following in the definition of family member:

- Parent-in-law
  - California, New Jersey, Rhode Island, New York, District of Columbia, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Minnesota, Maine,
- Grandparent
  - California, New Jersey, Rhode Island, New York, District of Columbia, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Minnesota, Maine,

---

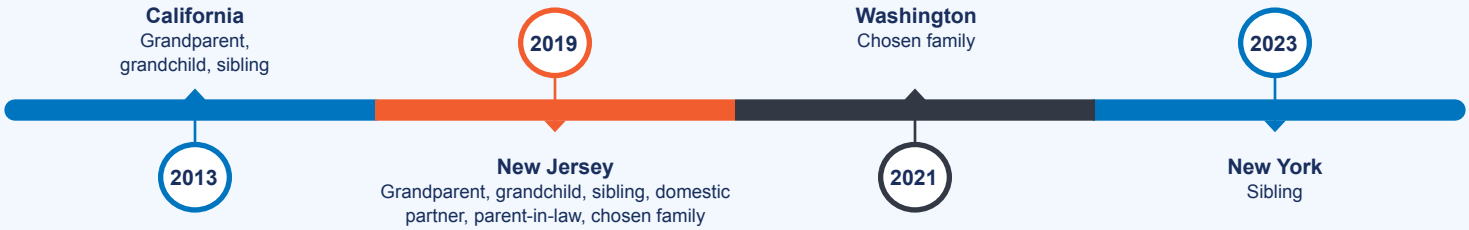
9. Some other programs allow applicants experiencing pregnancy loss to use medical leave. This brief only highlights programs that provide additional time for pregnancy-related medical care beyond the cumulative amount provided for non-pregnant applicants.

10. While the original state-administered temporary disability insurance programs allow pregnant people to use medical leave to attend to pregnancy-related medical care, this brief only highlights programs that provide additional time for pregnancy-related medical care beyond the cumulative amount provided for non-pregnant applicants.

11. Delaware has adopted the Family and Medical Leave Act definition of child, which defines child as a son or daughter under the age of 18 or 18 or older and incapable of self-care because of a mental or physical disability. Del. Code Ann. tit. 19, § 3701(2); 29 USC Ch. 28 §2611(12).

- Sibling
  - California, New Jersey, New York, District of Columbia, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Minnesota, Maine,
- Domestic partner
  - California, New Jersey, Rhode Island, New York, District of Columbia, Washington, Massachusetts, Oregon, Colorado, Maryland, Minnesota, Maine,
- Grandchild
  - California, New Jersey, New York, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Minnesota, Maine,
- Chosen family[12]
  - New Jersey, Washington, Connecticut, Oregon, Colorado, Minnesota, Maine

Figure 3. Timeline of family member definition expansions in state paid leave programs



Length of Leave

There is great variation in the maximum amount of leave that may be taken in each benefit year in each state paid family and medical leave program. When the original state-administered temporary disability insurance programs created paid family leave programs, each state initially provided four weeks of leave (Rhode Island), six weeks of leave (California, New Jersey), and eight weeks (New York). In 2020, California increased the length of leave to eight weeks[xxxiii] and New Jersey increased the length of leave to 12 weeks.[xxxiv] In Rhode Island, the length of leave increased to five weeks in 2022 and to six weeks in 2023.[xxxv] In New York, the length of leave increased to 10 weeks in 2019 and to 12 weeks in 2021.[xxxvi] Pregnant people in these states can receive medical leave after delivery (and in some instances, prior to), with the length of leave varying from six to eight weeks, depending on medical complications. After that, the pregnant person can use family leave to bond with their new child. States have continued to increase the length of leave, with the District of Columbia (through numerous amendments) increasing its original eight weeks of parental leave, six weeks of family leave, and two weeks of medical leave to a full 12 weeks of leave for each category and two weeks of prenatal leave, within two years of the program's launch.[xxxvii] Each program provides the following amounts of leave, summarized in the chart on the next page.

[12] Chosen families form when two or more individuals form a close, family-like relationship, whether through blood or affinity. For more information, see A Better Balance's website: https://www.abetterbalance.org/resources/5-facts-chosen-family/

Table 2. Maximum duration of paid leave by state (in weeks)

	CA	NJ	RI	NY	DC	WA	MA	CT	OR	CO	MD	DE	MN	ME
Medical	52	26	30	26	12	12	20	12	12	12	12	6	12	12
Family	8	12	6	12	12	12	12	12	12	12	12	6	12	12
Pregnancy-related medical care[13]	--	--	--	--	2	2	--	2	2	4	--	--	--	--
Military	8	--	--	12	--	12	26	12	--	12	12	6	12	12
Safe Leave	--	12	--	--	--	--	--	12 days	12	12	--	--	12	12
Maximum usage in benefit year	52	38	30	26	12-14	16-18	26	12-14	12-14	12-16	12-24	6-12	20	12

Wage Replacement Rate

When the original state-administered temporary disability insurance states created paid family leave programs, each state utilized a fixed wage replacement rate up to a cap that fluctuates dependent on the states' average weekly wage: Rhode Island, California, New Jersey, and New York. In 2017, California implemented a progressive wage replacement, with low-wage workers being able to receive a greater amount of their income.

Most of the programs created after the original state-administered temporary disability insurance programs use progressive wage replacement, with low-wage workers receiving the highest wage replacement and higher earners receiving a smaller percentage of their income (Massachusetts, District of Columbia, Washington, Colorado, Maryland, Minnesota, Maine, Connecticut, Oregon). Delaware will provide a fixed wage replacement rate. State paid family and medical leave programs have a maximum weekly amount that a worker can receive, which is updated annually.

Job Protection

Some state paid family and medical leave programs provide job protection, meaning that the employee is entitled to return to their job after returning from family leave (Rhode Island, New York) or from family and medical leave (Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Delaware, Minnesota, Maine), provided that the worker meets certain number of hours worked or tenure requirements.[14] Employees in states without job protection in the paid family and medical leave program may be able to receive protections through the federal Family and Medical Leave Act (FMLA) or state family and medical leave laws when applicable.[xxxviii]

Conclusion

In the past 20 years, there has been a rapid expansion of state paid family and medical leave programs. These programs provide workers with paid leave to care for themselves, a loved one, or a new child, expanding the protections provided through federal law. There are many variations in design and implementation among states that have created such programs. While there has been extensive research on the benefit of paid family and medical leave on workers, there is a need for further research on best practices for implementation of these programs in the states.

[13] While the original state-administered temporary disability insurance programs allow pregnant people to use medical leave to attend to pregnancy-related medical care, this brief only highlights programs that provide additional time for pregnancy-related medical care beyond the cumulative amount provided for non-pregnant applicants.

[14] There are different criteria for the following states: Criteria similar to FMLA (Washington), 90 days (Connecticut (except for safe leave), Oregon, Minnesota), 120 days (Maine), and 180 days (Colorado).

ENDNOTES

[i] Molly Weston Williamson, "Structuring Paid Family and Medical Leave: Lessons from Temporary Disability Insurance," Connecticut Public Interest Law Journal 17, no. 1 (Fall-Winter 2017), https://cpilj.law.uconn.edu/wp-content/uploads/sites/2515/2019/06/Structuring-Paid-Family-and-Medical-Leave-Lessons-from-Temporary-Disability-Insurance-by-Molly-Weston-Williamson.pdf

[ii] Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," National Academy of Social Insurance, no. 1 (September 2017), https://www.nasi.org/sites/default/files/research/NASI%20PFML%20brief%202017-%20Final.pdf

[iii] In 1946, Congress amended the Federal Unemployment Tax Act, to provide states with the option to transfer employee unemployment insurance contributions to the state's temporary disability insurance fund. "Annual Statistical Supplement to the Social Security Bulletin, 2016," Social Security Administration, SSA Publication No. 13-11700 (May 2017): page 44, https://www.ssa.gov/policy/docs/statcomps/supplement/2016/supplement16.pdf

[iv] Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," National Academy of Social Insurance, no. 1 (September 2017), https://www.nasi.org/sites/default/files/research/NASI%20PFML%20brief%202017-%20Final.pdf

State of California. n.d. Employers' Guide to Voluntary Plan Procedures. www.edd.ca.gov/pdf_pub_ctr/de2040.pdf

State of New Jersey. n.d. Family Leave Insurance – Frequently Asked Questions. Trenton, NJ: State of New Jersey Department of Labor and Workforce Development. https://www.nj.gov/labor/myleavebenefits/help/faq/fli.shtml

[v] Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," National Academy of Social Insurance, no. 1 (September 2017), https://www.nasi.org/sites/default/files/research/NASI%20PFML%20brief%202017-%20Final.pdf

[vi] Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," National Academy of Social Insurance, no. 1 (September 2017), https://www.nasi.org/sites/default/files/research/NASI%20PFML%20brief%202017-%20Final.pdf

[vii] In 1978, Congress enacted the Pregnancy Discrimination Act, which in addition to prohibiting discrimination in the workplace due to pregnancy, childbirth, or a related medical condition, required that states with temporary disability insurance programs provide prenatal and postnatal benefits for pregnant workers. This expanded temporary disability insurance programs, allowing pregnant workers to access paid medical leave before and after the birth of their child. 42 U.S.C. § 2000e; See the EEOC's webpage on Pregnancy Discrimination and Pregnancy-Related Disability Discrimination: https://www.eeoc.gov/pregnancy-discrimination.

[viii] Cal. Unemp. Ins. Code § 2601 et seq.

[ix] N.J. Stat. Ann. § 43:21-25 et seq.

[x] R.I. Gen. Laws § 28-39-1 et seq.

[xi] N.Y. Workers' Comp. Law § 200 et seq.

[xii] D.C. Code Ann. § 32-541.01 et seq.

[xiii] Wash. Rev. Code 50A.05.005 et seq.

[xiv] Mass. Gen. Laws ch. 175M, § 1 et seq.

[xv] Conn. Gen. Stat. § 31-49e et seq.

[xvi] Or. Rev. Stat. § 657B.005 et seq.

[xvii] Colo. Rev. Stat. § 8-13.3-501 et seq.

[xviii] Md. Code Ann., Lab. & Empl. § 8.3-101 et seq.

[xix] Del. Code Ann. tit. 19, § 3701 et seq.

[xx] H.F. 2, 93d Leg., Reg. Sess. (Minn. 2023), https://www.revisor.mn.gov/bills/text.php?number=HF2&type=bill&version=9&session=ls93&session_year=2023&session_number=0&format=pdf

[xxi] H.P. 163, L.D. 258, 131st Leg., 1st Spec. Sess. (Me. 2023), https://legislature.maine.gov/bills/getPDF.asp?paper=HP0163&item=2&snum=131

[xxii] "Workers, Employers will Pay Less in Temporary Disability, Family Leave Contributions in 2023, NJDOL Announces," New Jersey Department of Labor and Workforce Development, https://www.nj.gov/labor/lwdhome/press/2022/20221021_tdiflirates.shtml

[xxiii] D.C. Code Ann. § 32-541.01(15); D.C. Law 24-45 (2021).

[xxiv] H.F. 2, 93d Leg., Reg. Sess. (Minn. 2023), https://www.revisor.mn.gov/bills/text.php?number=HF2&type=bill&version=9&session=ls93&session_year=2023&session_number=0&format=pdf

[xxv] N.J. Stat. Ann. § 43:21-27(o)(3); A. 3975, 218th Leg., Reg. Sess. (N.J. 2019).

[xxvi] Cal. Unemp. Ins. Code §§ 2626, 3302(e); S.B. 83, 2019-2020 Leg., Reg. Sess. (Cal. 2019).

[xxvii] Or. Rev. Stat. § 659A.159(1)(d); H.B. 2474 § 6, 81st Leg. Assembly, Reg. Sess. (Or. 2021).

[xxviii] Wash. Rev. Code 50A.05.010(10)(d).

[xxix] Cal. Unemp. Ins. Code §§ 3302(e)-(k); S.B. 770, 2013-2014 Leg., Reg. Sess. (Cal. 2013).

[xxx] N.J. Stat. Ann. § 43:21-27(n); A. 3975, 218th Leg., Reg. Sess. (N.J. 2019).

[xxxi] Wash. Rev. Code 50A.05.010(11); S.B. 5649, 67th Leg., Reg. Sess. (Wash. 2022).

[xxxii] N.Y. Workers' Comp. Law § 201(20), (24) (as amended by S. 2928).

[xxxiii] Cal. Unemp. Ins. Code § 3301(c); S.B. 83, 2019-2020 Leg., Reg. Sess. (Cal. 2019).

[xxxiv] N.J. Stat. Ann. § 43:21-38; A. 3975, 218th Leg., Reg. Sess. (N.J. 2019).

[xxxv] R.I. Gen. Laws § 28-41- 35(d)(1); H.B. 6090, § 1, 2021-2022 Leg. Sess. (R.I. 2021).

[xxxvi] N.Y. Workers' Comp. Law § 204(2)(A) (as amended by S. 6406C).

[xxxvii] Medical leave was increased from two weeks of leave to six weeks in 2021.D.C. Code Ann. § 32–541.04(e-1); D.C. Law 24-167, § 4012(a).

[xxxviii] Employees taking leave may be entitled to job protection under the American Disabilities Act (ADA), Pregnant Workers Fairness Act (PWFA), Pregnancy Discrimination Act (PDA), or Title VII.